

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<p>Applicant: Sean Endler et al.</p> <p>Serial No.: 10/821,099</p> <p>Filed: April 7, 2004</p> <p>Title: METHODS AND APPARATUSES FOR CAPTURING AND STORING CONTENT RELATED TO AN EVENT</p> <p>Group Art Unit: 2169</p> <p>Examiner: Jacob F. Betit</p> <p>Confirmation No.: 8955</p> <p>Customer No.: 37123</p>	<p>Certificate of Transmission/Mailing</p> <p>I hereby certify that this correspondence is being facsimile transmitted to the USPTO, transmitted via the Office electronic filing system, or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.</p> <p>9/28/2009 Date</p> <p>Thomas Lebens Registration No. 38,221 Attorney for Applicant(s)</p>
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APPEAL BRIEF

Mail Stop: APPEAL BRIEF - PATENT
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellants submit this appeal brief under 37 C.F.R. § 41.37 appealing the final rejection of Claims 1-14 and 20-29 in the Office Action mailed April 27, 2009 and Advisory Action mailed July 9, 2009.

(1) Real Parties in Interest

The real parties in interest are Sony Corporation and Sony Electronics Inc.

(2) Related Appeals and Interferences

No related appeals or interferences are known to Appellants.

(3) Status of Claims

Claims 1-18 were submitted for examination in the application filed on January 3, 2006.

Claims 1, 14, 20, 24 and 25 were amended during prosecution.

Claims 15-19 were canceled during prosecution.

Claims 26-29 were added during prosecution.

Claims 1-14 and 20-29 were finally rejected in the April 27, 2009 final office action¹.

Claims 1-14 and 20-29 are appealed.

¹ Hereinafter referred to as "Office Action"

(4) Status of Amendments

No amendments have been filed subsequent to the final rejection mailed April 27, 2009.

(5) Summary of Claimed Subject Matter

Independent Claims Subject Matter Map

Claim 1

detecting an event	Abstract, FIG. 5, [0053]
searching for an event profile corresponding to the event wherein the searching is done without using a time or date	Abstract, FIG. 5, [0054]
detecting content transmitted by a participant of the event and description information corresponding to the content	Abstract, FIG. 5, [0055]-[0059]
associating the content with the event based on the description information and the event profile	Abstract, FIG. 5, [0060]-[0062]

Claim 14

means for detecting an event	FIG. 3 (element 310), [0031]-[0036],
means for searching for an event profile corresponding to the event wherein the searching is done without using a time or date	FIG. 3 (element 310), [0031]-[0034], [0037],
means for detecting content transmitted by a participant of the event and description information corresponding to the content	FIG. 3 (element 320), [0031]-[0033], [0038]
means for associating the content with the event based on the description information and the event profile	FIG. 3 (element 320), [0031]-[0033], [0038]
means for storing the content and the event	FIG. 3 (element 330), [0031]-[0033], [0040]

Claim 20

an interface module to receive content and description information corresponding to the content, wherein the content is relating to an event is captured and transmitted by a participant of the event	Abstract, FIG. 3, [0041]
a storage module to store a record containing an event profile describing the event wherein the storage module comprises a tangible storage unit	Abstract, FIG. 3, [0040]
a content categorization module for matching without using a time or date, the content with the event and the description information	Abstract, FIG. 3, [0032], [0033], [0038], [0039]

Claim 25

detecting an event comprising a plurality of participants and storing an event profile	Abstract, FIG. 3, [0039], [0045], [0053]-[0062]
receiving content without a time or a date relating to the event from one of the plurality of participants	FIG. 7, FIG. 8, [0071], [0077]-[0079]
receiving a request to access the content from a user	FIG. 7, FIG. 8, [0072] , [0082]
searching for the event profile corresponding to the content	FIG. 7, FIG. 8, [0072] , [0081], [0082]
matching the content with the event profile	FIG. 7, FIG. 8, [0072] , [0081], [0082]
displaying the content based on the user and the event profile	FIG. 7, FIG. 8, [0074] , [0082]

Claim 26

receiving an event profile comprising at least one attribute relating to an event	FIG. 5, [0054]
receiving content and corresponding content description information comprising at least one attribute related to the content	FIG. 5, [0055]-[0058]
associating the content with the event when the at least one attribute related to the event matches the at least one attribute related to the content, wherein the attribute is not a time or a date	FIG. 5, [0060]

A concise explanation of this subject matter appears as follows (with corresponding references to the specification² by page and line number (or paragraph numbering where appropriate) and to the drawing(s) (if any) by figure number and reference characters.³

The claimed embodiments are directed to methods and apparatuses for capturing and storing content related to an event.⁴ FIGS. 3, 5 and 7 from the application appears below for the convenience of the reader showing an exemplary process and apparatus for capturing and storing content related to an event according to some embodiments:

² Application as Published, U.S. Application Publication No. 2005/0234905.

³ It will be understood that this summarization of the Claimed subject matter is, in fact, a “summary” and that Applicant does not represent or intend that this brief presentation, or the accompanying references to the drawings and the specification, comprises an exhaustive presentation in this regard. As always, the Claims are to be viewed and interpreted in view of the context of the entire specification and the Abstract.

⁴ Published App., Abstract.

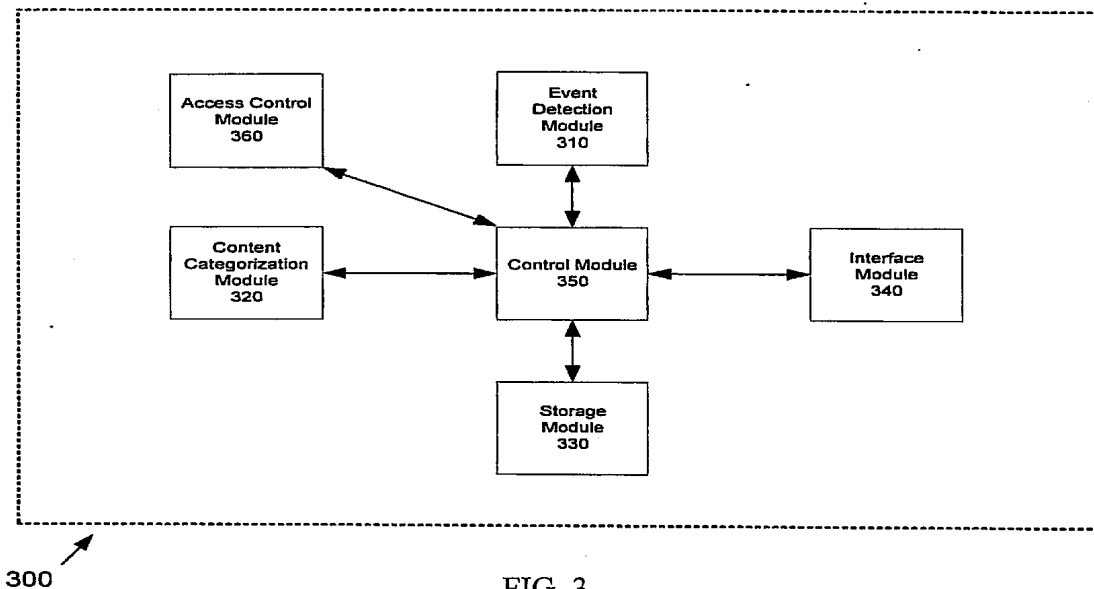


FIG. 3

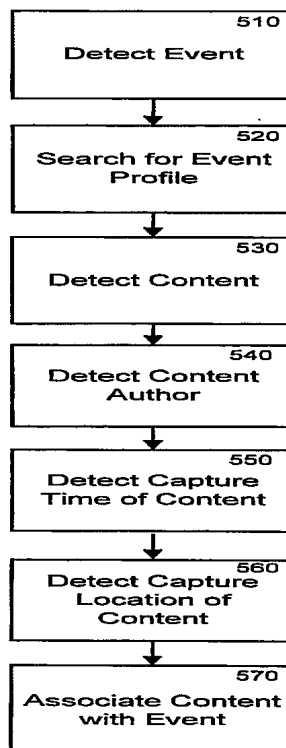


FIG. 5

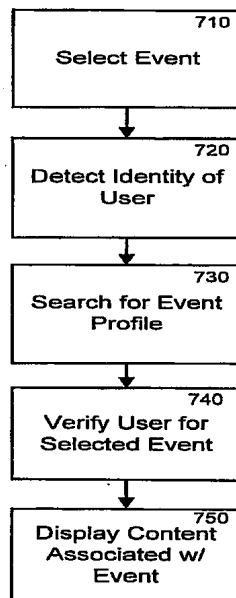


FIG. 7

More specifically, some embodiments provide a method for capturing and storing content related to an event, and further associating the content with the event based on the description information of the content and the event information. In one embodiment, the description information of the content includes the location while capturing the content, time, and/or the author of the content.⁵ In one embodiment, the content is a digital image. In another embodiment, the content is one of a video media, audio media, textual media and graphical media.⁶

In one embodiment a method is provided to associate content with an event, wherein an event is detected.⁷ Next, the event profile corresponding to the event is searched without using time and date.⁸ In one embodiment the event profile comprises one or more of an event location, event time, event duration, and event participants.⁹ Next, content transmitted by a participant of the event, and description information corresponding to the content, is detected and the content is

⁵ Published App., para. 0020

⁶ Published App., para. 0055

⁷ Published App., Abstract, FIG. 5, para. 0053

⁸ Published App., Abstract, FIG. 5, para. 0054

⁹ Published App., para. 0054, FIG. 4A

associated with the event based on the description information and the event profile.¹⁰ In one embodiment, the method further matches the description information corresponding to the content with the event profile. In one embodiment, the event profile and/or the description information is stored along with the content and/or the event.

Furthermore, in one embodiment, a method is provided for associating a content with an event. For example, in one embodiment the method begins when an event profile comprising at least one attribute relating to an event such as the location or participants of the event is received.¹¹ Additionally, content and corresponding content description information comprising at least one attribute related to the content such as the author of the content and/or a location of the content is received.¹² In some embodiments, the event has multiple participants and the content received is transmitted by one of the multiple participants. The method further associates the content with the event when the at least one attribute related to the event matches the at least one attribute related to the content, wherein the attribute is not a time or a date.¹³ In some embodiments, one attribute related to the event is a list of participants of the event, and the content is displayed when requested by a participant of the event.

In another embodiment, a system is provided with means for detecting an event. For example, in one embodiment an event detection module 310 detects an event.¹⁴ The system may further comprise means for searching for an event profile corresponding to the event adapted to search without using a time or date. For example, in one embodiment the event detection module 310 utilizes additional information associated with the particular event, such as event location, event duration and event participants.¹⁵ The system may further comprise means for detecting content relating to the event and transmitted by a participant of the event and description information corresponding to the content and means for associating content with the event based on the description information and the event profile. For example, in one embodiment the content categorization module 320 detects the content and description

10 Published App., Abstract, FIG. 5, para. 0055, 0062

11 Published App., FIG. 5, para. 0054

12 Published App., FIG. 5, para. 0055, 0058

13 Published App., FIG. 5, para. 0060

14 Published App., para. 0034, 0035, FIG. 3

15 Published App., para. 0036, FIG. 3, FIG. 4A

information related to the content, and further determines which event the content should be categorized with.¹⁶

In yet another embodiment, a system is provided comprising an interface module to receive content relating to an event captured and transmitted by a participant of the event, and description information corresponding to the content.¹⁷ In one embodiment, a storage module is further provided to store a record containing an event profile describing the event wherein the storage module comprises a tangible storage unit.¹⁸ In such embodiments, the storage module may further store the description information and the content. A content categorization module is further provided in some embodiment for matching the content with the event and the description information, without using a time or date.¹⁹

In some embodiments, the system further comprises an event detection module to detect the event.²⁰ Additionally, or alternatively, the system may further comprise an access control module to selectively allow a user to view the content.²¹ The access control module allows the user to view the content when the user is one of the plurality of participants listed in the event profile associated with the event.

In yet another embodiment a computer-readable medium having computer executable instructions for performing a method for associating content with an event. More specifically, in one embodiment, the computer readable medium comprises instructions for detecting an event comprising a plurality of participants and storing an event profile. The computer readable medium further comprises instructions for receiving content without a time or a date relating to the event from one of the plurality of participants. Additionally, instructions are provided for receiving a request to access the content from a user. The instructions further perform the steps of searching for the event profile corresponding to the content, matching the content with the event profile and displaying the content based on the user and the event profile.

16 Published App., para. 0038

17 Published App., FIG. 3, para. 0041

18 Published App., FIG. 3, para. 0040

19 Published App., FIG. 3, para., 0032, 0033, 0038, 0039

20 Published App., FIG. 3, para., 0031, 0036

21 Published App., FIG. 3, para., 0042, 0043

(6) Grounds of Rejection to be Reviewed

The following issues are presented for review:

Issue 1: whether Claim 14 is unpatentable under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Issue 2: whether Claims 26-27 are unpatentable under 35 U.S.C. §102 over U.S. Patent Publication No. 2003/0050982 to Chang.

Issue 3: whether Claims 1-14, 20-25, 28 and 29 are unpatentable under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2003/0050982 to Chang in view of U.S. Patent Publication No. 2003/0184653 to Ohkubo.

(7) Argument

The following arguments are presented to contest the grounds for rejection presented above.

Issue 1: Claim 14 is unpatentable under 35 U.S.C. §101.

Claim 14 stands rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. However, Claim 14 is not directed to non-statutory subject matter and is therefore patentable.

The Examiner in response to Appellants' previous arguments (Response to Office Action mailed February 6, 2009), states that "the 'means for storing the content and the event' in Claim 14 still could be reasonably interpreted as software means" and accordingly maintained the rejection of Claim 14 (Office Action, pg. 2). The Manual of Patent Examining Procedure (MPEP) set out a two-part test for interpreting a means plus function claim.

"The first step in construing a means-plus-function claim limitation is to define the particular function of the claim limitation ... The next step in construing a means-plus-function claim limitation is to look to the specification and identify the corresponding structure for that function." (MPEP 2182)

Furthermore, the MPEP explains,

"Under this second step, 'structure disclosed in the specification is "corresponding" structure only if the specification or prosecution history clearly links or associates that structure to the function recited in the claim.'"

Claim 14 recites "means for storing the content and the event." It is clear from the claimed language that the particular function of the "means for storing the content and the event," is the storing of content and event. The specification discloses that the storage module 330 stores a record or content (Published App., para. 0040). The specification further describes that "the access control module 360 selectively transmits the content stored within the storage module 330 to an electronic device" (Published App., para. 0043). As such, it is clear that the storage module is the structure that stores the content and that it must at least comprise a tangible physical storage location in which content may be stored and later accessed by for example the access control module.

In the Advisory Action mailed July 9, 2009, the Examiner responds to the above

arguments which were presented in the response to the Office Action mailed April 27, 2009, stating “the applicant’s specification discloses something different” citing to a portion of the specification reciting “In one embodiment, the plurality of client devices 110 and the server 130 include instructions for a customized application for capturing and storing content related to an event” (Office Action pg. 2 citing Specification, para. 0029). Appellants respectfully submit that this portion of the specification is in line with Appellants’ prior arguments and does not disclose something contrary to what is argued by the Appellants. In one or more embodiments, a plurality of computer-readable media, such as computer readable media 209 and 212 contain, in part, the customized application. However, the specification further recites a system having the storage module 330, which stores events, contents and information associated with the event and content. Later, the access control module 360 selectively transmits the content stored within the storage module 330 to an electronic device based on the user requesting the content (Specification, paras. 0040 and 0042). As such, it is clear, that while some or all of the method for the capturing and storing content related to an event may be performed based on the instructions, the storage module 330 comprises a tangible storage element which is capable of storing data which can later be retrieved by the access control module 360.

As such, Appellants respectfully submit that the storage module is not solely made up of software means, and thus, Claim 14 recites patentable subject matter under 35 U.S.C. 101, and therefore, request that the rejection be withdrawn.

Issue 2: Claims 26-27 are patentable over to Chang.

Claims 26-27 stand rejected under 35 U.S.C. §102(b), as being anticipated by U.S. Publication No. 2003/0050982 (Chang).

Claim 26

Appellants previously argued that Chang does not anticipate Claim 26, because Chang is specifically directed to annotating data with a time value (response to Office Action mailed February 6, 2009, pg. 10). Further, Figures 2 and 3 also expressly recite the steps of acquiring a time stamp 202, 302 and sending the time stamp to a calendar 204, 304 (see Chang, Paragraph 1).

In response to that argument, the Examiner states that “Chang teaches matching in a calendar application both a time stamp and a user. Therefore, ‘at least one attribute related to the event matches at least one attribute related to the content’” (Office Action, pg. 12). Appellants respectfully disagree with this contention. The “identifier of the user of the recording device” which is sent to the calendar along with the time stamp information, is not an attribute relating to the event. Instead, this information is relating to the calendar. The user identifier is employed to locate the user’s calendar (see Chang, paras. 0014 and 0015). From thereon, the system determines “if [] an event is on the calendar for the time stamp information” and “sends back [] to the recording device a description of an event” (Chang, para. 0015). Therefore, the only attribute of the event that is matched with the attribute of the content is the time stamp (See Chang, para. 0015). As such, the Chang reference fails to disclose “at least one attribute related to the event matches at least one attribute related to the content, wherein the attribute is not a time or date,” as recited in Claim 26 (emphasis added). Therefore, Appellants respectfully submit that at least Claim 26 is not anticipated by the Chang reference.

In response to the above argument, which was presented to the Examiner in response to the Office Action mailed April 27, 2009, the Examiner states that “[a]ny event that are *[sic]* on a calendar are related to the user that owns that calendar. If a user’s camera is used to capture content of an event, and the user identifier is later used to find the calendar of that user, the event and the content both have the user attribute in common” (Advisory Action mailed July 9, 2009, pg. 2). Appellants submit that even assuming that the Examiner’s contention is valid, the Examiner’s above statement does not demonstrate that Chang describes “associating the content with the event when the at least one attribute related to the event matches the at least one attribute related to the content, wherein the attribute is not a time or a date” as recited in Claim 26.

That is, while the event and the content may both have the user attribute in common once the Chang system has sorted the image data, the user attribute is not used to associate the content with the event as recited in Claim 26. Instead, Chang specifically discloses selecting the “corresponding event which corresponds to the date/time of photography, represented by the date/time of photography” (See Chang, para. 0073). The user information

which the Examiner refers to is used for “a selection of the database DBs which is used for sorting the image data,” but once the database is selected, there are still several events which are stored within the database (see Chang, para. 0072), and the associating the content with the event is done using the time/date of photography. As such, even assuming that the Examiner’s assertion is true that once the sorting is completed in Chang the content and the event will have the user information in common, Chang still fails to describe or suggest “associating the content with the event when the at least one attribute is not a time or a date” as recited in Claim 26. As such, Appellants respectfully submit that Chang fails to anticipate at least Claim 26.

Claim 27

Claim 27 is a dependant claim that depends upon independent Claims 25 and 26. Although other significant points of distinction may be found therein, again, for the purposes of this appeal the Appellants are content to rely only upon the points raised above with respect to Claim 26 and below with respect to Claim 25.

Issue 3: Claims 1-14, 20-25, 28 and 29 are patentable over Chang in view of Ohkubo.

Claims 1-14, 20-25, 28, and 29 stand rejected under 35 U.S.C. §103(a), as being unpatentable over U.S. Publication No. 2003/0050982 (Chang) in view of U.S. Publication No. 2003/0184653 (Ohkubo). Appellants respectfully traverse this rejection and further submit that the above-cited combination fails to describe or suggest each limitation as recited in at least independent Claims 1, 14, 20 and 25.

Claim 1

Claim 1 recites in part:

- detecting an event;
- searching for an event profile corresponding to the event wherein the searching is done without using a time or date;
- detecting content transmitted by a participant of the event and description information corresponding to the content; and

associating the content with the event based on the description information and the event profile.

Appellants respectfully submit that the combination of Chang and Ohkubo fails to describe or suggest “searching for an event profile corresponding to the event wherein the searching is done without using a time or date.” The Examiner submit that Chang does not describe or suggest at least “searching for an event profile corresponding to the event wherein the searching is done without using a time or date,” as recited in at least Claim 1, and relies on Ohkubo as describing this limitation (Office Action, pg. 4).

However, Appellants submit that Ohkubo also fails to describe or suggest this limitation. Ohkubo specifically describes using calendar information C0 to categorize events, wherein the calendar information comprises a date and time (see for example Ohkubo, para. 0063). The Examiner cites to a specific embodiment of Ohkubo where calendar information is not explicitly available. However, the period inference method described in the cited portion uses the tag information which includes the “photography date information” to infer the period of time in which the event occurred (See Ohkubo, para. 0097). As such, Ohkubo fails to describe or suggest “searching for an event profile corresponding to the event wherein the searching is done without using a time or date,” and instead uses the date information to infer the period in which an event occurred.

In response to Appellants’ previous arguments stating that Ohkubo fails to describe or suggest “searching for an event profile corresponding to the event wherein the searching is done without using a time or date,” because Ohkubo describes using calendar information, and/or photography date information (see response to Office Action mailed November 6, 2008), the Examiner states, “the claims are written to require search without a time or search without a date, not both” (Office Action, pg. 12). Appellants disagree with this contention.

Claim 1 specifically recites: “searching for an event profile corresponding to the event wherein the searching is done without using a time or date.” Appellants respectfully submit that the language without a time or date is different than what the Examiner contends the claim recites, i.e. without a time or without a date. Instead, the language of the claim specifically requires searching without using either time or date, not without using time or without using date as suggested by the

Examiner. The Examiner bases his rejection of the claim and reliance on Ohkubo on this contention and states that “Ohkubo teaches searching for a time without using an exact time. The event period is inferred from the date the images were taken.” (Office Action, pg. 12). As such, the Examiner admits that Ohkubo discloses using at least a date, i.e., Ohkubo is with a time or date and is not without a time or date, as claimed. As such, Ohkubo fails to describe or suggest “searching for an event profile corresponding to the event wherein the searching is done without using a time or date.”

In response to the above arguments presented in response to the Office Action mailed April 27, 2009, the Examiner states that “[t]he applicant has clearly used the conjunction ‘or’ in the claim language. ‘Or’ is used as a function word to indicate an alternative. If the searching is done without one or both of date and time, the statement is logically true” (Advisory Action, pg. 2). Appellants submit that while “or” is a term used for alternatives and is used in the claim language, the Examiner’s contention that if the searching is done without one or both of date and time, the statement is logically correct, is in error. De Morgan’s law specifically states that not (p or q) is equivalent to not p and not q. Assuming that p corresponds to time and q corresponds to date, De Morgan’s law clearly states that without time or date is equivalent to without time and without date, as previously argued by Appellants.

As such, to render Claim 1 obvious, the proposed combination must describe a method comprising searching for an event profile corresponding to the event wherein the searching is done without using a time and without using a date. Since the Examiner himself admits that Chang does not describe this limitation, and further that Ohkubo discloses using at least the date, the proposed combination fails to describe or suggest this limitation. As such, the proposed combination fails to render Claim 1 obvious.

Furthermore, the Examiner states that “searching for an event that is without a time and without a date would be the same as finding a location and associating it with content,” and cites to U.S. Publication No. 2004/0135904 to Shiota (Paras. 0011-0012) and U.S. Publication No. 2006/0155761 to Van De Sluis et al.

With respect to Shiota, Appellants respectfully submit that Shiota does not describe or suggest at least “searching for an event profile corresponding to the event wherein the searching is

done without using a time or date,” as recited in Claim 1. Shiota specifically discloses “[a]n image sorting method ... includ[ing] the steps of obtaining photography date/time information ... selecting a single corresponding event which corresponds to the date/time of photography ... and associating the corresponding event with the image data” (Shiota, para. [0007]). The cited portions simply discuss attaching a location name to the image that has already been associated with an event based on the time/date. More specifically, the cited portion of Shiota refers to additional information that may be associated with the image data. As such, the event in Shiota is not “without a time and without a date” as stated by the Examiner (Office Action, pg. 12), and instead the event is associated with the image based on a time and date (see Shiota, paras. [0007], [0011] and [0012]). Furthermore, the cited portions of Shiota refer to finding an “area name” based on location information attached to the image, and do not discuss search for the “event” based on the location information attached to the image (see Shiota, paras. [0010-002]).

Next, with regard to Van De Sluis, Appellants initially point out that this reference is a new reference, not having been cited in any previous communication. According to Manual of Patent Examining Procedure (MPEP),

“second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement” (MPEP §706.07(a), emphasis added).

Therefore, Appellants respectfully submit that the Examiner cannot base his rejections of at least Claim 1 on Van De Sluis, because this reference was not previously cited in any communication from the patent office, and furthermore, was not necessitated by Appellants’ amendments or based on information submitted in an Information Disclosure Statement by Applicant. As such, Appellants respectfully submit that any rejections based on the Van De Sluis patent must be represented in a non-final Office Action.

Furthermore, Appellants respectfully submit that Van De Sluis fails to describe or suggest at least “searching for an event profile corresponding to the event wherein the searching is done without using a time or date,” as recited in Claim 1. Instead, the search for specific occasions, i.e. events, is done using Van De Sluis’ date/occasion database. “Date/occasion

database 23 stores known dates associated with specific occasions occurring on the dates” (para. 0019), such as by using “the date and time at which the photograph is taken” (para. 0019). Van De Sluis only appears to disclose using GPS information to assign a location name(s) to an image (see Van De Sluis, para. 0017 and 0018), and does not describe searching for an event profile corresponding to the event using the GPS information. As such, Van De Sluis also fails to describe or suggest “searching for an event profile corresponding to the event wherein the searching is done without using a time or date,” as recited in at least Claim 1 (emphasis added).

The Examiner in response to these arguments, states that “these references [i.e. Shiota and Van De Sluis] were not used in the rejection (see Advisory Action, pg. 2). Appellants present these arguments nonetheless to further show that Claim 1 is patentable in view of the art found by the Examiner to be related to the claimed subject matter.

In light of the reasons described above, Appellants respectfully submit that Claim 1 is not rendered obvious in view of the proposed combination, as well as the other prior art cited in the Office Action and Advisory Action. As such, Appellants believe that the rejection of Claim 1 is overcome and should be withdrawn.

Claim 14

With regard to Claim 14, the combination of Chang and Ohkubo fail to teach at least a system for associating content with an event.

Claim 14 recites:

A system comprising:
means for detecting an event;
means for searching for an event profile corresponding to the event
wherein the means for searching is adapted to search without using a time or date;
means for detecting content relating to the event and transmitted by a
participant of the event and description information corresponding to the content;
means for associating the content with the event based on the description
information and the event profile; and
means for storing the content and the event.

The proposed combination fails to describe or suggest at least “means for searching for an event profile corresponding to the event wherein the means for searching is adapted to search without using a time or a date.”

In rejecting Claim 14, the Examiner submits that Chang does not distinctly disclose wherein the means for searching is adapted to search without using a time or a date and instead relies on Ohkubo as teaching this limitation, citing to paragraph 0023 and 0096-0101 of Ohkubo.

Appellants initially note that the cited portions of Ohkubo are identical to those cited with respect to Claim 1 and discussed above.

Furthermore Appellants submit that Ohkubo fails to describe or suggest this limitation. Ohkubo specifically describes using calendar information C0 to categorize events, wherein the calendar information comprises a date and time (see for example Ohkubo, para. [0063]). The Examiner cites to a specific embodiment of Ohkubo where calendar information is not explicitly available. However, the period inference method described in the cited portion uses the tag information which includes the “photography date information” to infer the period of time in which the event occurred (Ohkubo, [0097]). As such, Ohkubo fails to describe or suggest “means for searching for an event profile corresponding to the event wherein the means for searching is adapted to search without using a time or a date,” and instead uses the date information to infer the period in which an event occurred.

In response to the above arguments, which were presented by the Appellants in response to the Office Action mailed November 6, 2008, the Examiner states, “the claims are written to require search without a time or search without a date, not both” (Office Action, pg. 12). Appellants disagree with this contention.

Claim 14 specifically recites: “means for searching for an event profile corresponding to the event wherein the means for searching is adapted to search without using a time or a date.” Appellants respectfully submit that the language without a time or a date is different than what the Examiner contends the claim recites, i.e. without a time or without a date. Instead, the language of the claim specifically requires searching without using either time or date, not without using time or without using date as suggested by the Examiner. The Examiner

bases his rejection of the claim and reliance on Ohkubo on this contention and states that “Ohkubo teaches searching for a time without using an exact time. The event period is inferred from the date the images were taken.” (Office Action, pg. 12). As such, the Examiner himself admits that Ohkubo discloses using at least a date, i.e., Ohkubo is with a time or date, and is not without a time or date, as claimed. As such, Ohkubo fails to describe or suggest “means for searching for an event profile corresponding to the event wherein the means for searching is adapted to search without using a time or a date.” It follows that the combination of Chang and Ohkubo fails to describe or suggest each limitation as recited in at least Claim 14.

In response to the above arguments presented in response to the Office Action mailed April 27, 2009, the Examiner states that “[t]he applicant has clearly used the conjunction ‘or’ in the claim language. ‘Or’ is used as a function word to indicate an alternative. If the searching is done without one or both of date and time, the statement is logically true” (Advisory Action, pg. 2). Appellants submit that while “or” is a term used for alternatives and is used in the claim language, the Examiner’s contention that if the searching is done without one or both of date and time, the statement is logically correct, is in error. De Morgan’s law specifically states that not (p or q) is equivalent to not p and not q. Assuming that p corresponds to date, De Morgan’s law clearly states that without time or date is equivalent to without time and without date, as previously argued by Appellants.

As such, to render Claim 14 obvious, the proposed combination must describe a system having a means for searching for an event profile being adapted to search without using a time and without using a date. Since the Examiner himself admits that Chang does not describe this limitation, and further that Ohkubo also discloses using at least the date, the proposed combination fails to describe or suggest this limitation. As such, the proposed combination fails to render Claim 14 obvious.

Furthermore, the Examiner states that “searching for an event that is without a time and without a date would be the same as finding a location and associating it with content,” and cites to U.S. Publication No. 2006/0155761 to Van De Sluis et al.

With respect to Shiota, Appellants respectfully submit that Shiota does not describe or suggest at least “means for searching for an event profile corresponding to the event wherein the

means for searching is adapted to search without using a time or date,” as recited in Claim 14. Shiota specifically discloses “[a]n image sorting method ... includ[ing] the steps of obtaining photography date/time information ... selecting a single corresponding event which corresponds to the date/time of photography ... and associating the corresponding event with the image data” (Shiota, para. [0007]). The cited portions simply discuss attaching a location name to the image that has already been associated with an event based on the time/date. More specifically, the cited portion of Shiota refers to additional information that may be associated with the image data. As such, the event in Shiota is not without a time and without a date as claimed by the Examiner (Office Action, pg. 12), and instead the event is associated with the image based on a time and date (see Shiota, paras. [0007], [0011] and [0012]). Furthermore, the cited portions of Shiota refer to finding an “area name” based on location information attached to the image, and do not discuss search for the “event” based on the location information attached to the image (see Shiota, paras. [0010-002]).

Next, with regard to Van De Sluis, Appellants initially point out that this reference is a new reference, not having been cited in any previous communication. According to Manual of Patent Examining Procedure (MPEP),

“second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement” (MPEP §706.07(a), emphasis added).

Therefore, Appellants respectfully submit that the Examiner cannot base his rejections of at least Claim 14 on Van De Sluis, because this reference was not previously cited in any communication from the patent office, and furthermore was not necessitated by Appellants’ amendments, or based on information submitted in an Information Disclosure Statement by Applicant. As such, Appellants respectfully submit that any rejections based on the Van De Sluis patent must be represented in a non-final Office Action.

Furthermore, Appellants respectfully submit that Van De Sluis fails to describe or suggest at least “means for searching for an event profile corresponding to the event wherein the means for searching is adapted to search without using a time or date,” as recited in Claim 14. Instead, the search for specific occasions, i.e. events, is done using Van De Sluis’ date/occasion

database. “Date/occasion database 23 stores known dates associated with specific occasions occurring on the dates” (para. 0019), such as by using “the date and time at which the photograph is taken” (para. 0019). Van De Sluis only appears to disclose using GPS information to assign a location name(s) to an image (see Van De Sluis, para. 0017 and 0018), and does not describe searching for an event profile corresponding to the event using the GPS information. As such, Van De Sluis also fails to describe or suggest “means for searching for an event profile corresponding to the event wherein the means for searching is adapted to search without using a time or date,” as recited in at least Claim 14 (emphasis added).

The Examiner in response to these arguments, states that “these references [i.e. Shiota and Van De Sluis] were not used in the rejection (see Advisory Action, pg. 2). Appellants present these arguments nonetheless to further show that Claim 14 is patentable in view of the art found by the Examiner to be related to the claimed subject matter.

In light of the reasons described above, Appellants respectfully submit that Claim 14 is not rendered obvious in view of the proposed combination, as well as the other prior art cited in the Office Action and Advisory Action. As such, Appellants believe that the rejection of Claim 14 is overcome and should be withdrawn.

Claim 20

Claim 20 recites in part:

A system, comprising:
an interface module to receive content and description information corresponding to the content, wherein the content is relating to an event is captured and transmitted by a participant of the event;
a storage module to store a record containing an event profile describing the event wherein the storage module comprises a tangible storage unit; and
a content categorization module for matching without using a time or date, the content with the event and the description information.

Appellants respectfully submit that the combination of Chang and Ohkubo fails to describe or suggest at least “a content categorization module for matching without using a time or date, the content with the event and the description information.”

The Examiner asserts that Chang describes this limitation stating that “for matching without using a time or a date is a statement of intended use and therefore does not hold patentable weight,” citing MPEP 2106 II.C (Office Action, pg. 8). Appellants respectfully submit that the claimed language is not merely a statement of intended use and instead provides a limitation to the content categorization module, by requiring that the content categorization module is adapted to match the content with the event information without using a time or a date.

Alternatively, the Examiner states that the combination of Chang and Ohkubo describes this limitation. The Examiner submits that Chang does not describe or suggest at least matching without using a time or a date,” as recited in at least Claim 20, and relies on Ohkubo as describing this limitation (Office Action, pg. 8).

However, Appellants submit that Ohkubo also fails to describe or suggest this limitation. Ohkubo specifically describes using calendar information C0 to categorize events, wherein the calendar information comprises a date and time (see for example Ohkubo, para. 0063). The Examiner cites to a specific embodiment of Ohkubo where calendar information is not explicitly available. However, the period inference method described in the cited portion uses the tag information which includes the “photography date information” to infer the period of time in which the event occurred (Ohkubo, para. 0097), i.e., Ohkubo is with a time or date, and is not without a time or date, as claimed. As such, Ohkubo fails to describe or suggest “a content categorization module for matching without using a time or date, the content with the event and the description information,” and instead uses the date information to infer the period in which an event occurred.

In response to Appellants’ previous arguments stating that Ohkubo fails to describe or suggest “searching for an event profile corresponding to the event wherein the searching is done without using a time or date” because Ohkubo describes using calendar information, and/or photography date information (see response to Office Action mailed November 6, 2008), the Examiner stated “the claims are written to require search without a time or search without a date, not both” (Office Action, pg. 12). Appellants disagree with this contention.

Claim 20 specifically recites: "a content categorization module for matching without using a time or date, the content with the event and the description information."

Appellants respectfully submit that the language without a time or date is different than what the Examiner contends the claim recites, i.e. without a time or without a date. Instead, the language of the claim specifically requires searching without using either time or date, not without using time or without using date as suggested by the Examiner. The Examiner bases his rejection of the claim and reliance on Ohkubo on this contention and states that "Ohkubo teaches searching for a time without using an exact time. The event period is inferred from the date the images were taken." (Office Action, pg. 12). As such, the Examiner admits that Ohkubo discloses using at least a date. As such, Ohkubo fails to describe or suggest "searching for an event profile corresponding to the event wherein the searching is done without using a time or date."

In response to the above arguments presented in response to the Office Action mailed April 27, 2009, the Examiner states that "[t]he applicant has clearly used the conjunction 'or' in the claim language. 'Or' is used as a function word to indicate an alternative. If the searching is done without one or both of date and time, the statement is logically true" (Advisory Action, pg. 2). Appellants submit that while "or" is a term used for alternatives and is used in the claim language, the Examiner's contention that if the searching is done without one or both of date and time, the statement is logically correct, is in error. De Morgan's law specifically states that not (p or q) is equivalent to not p and not q. Assuming that p corresponds to time and q corresponds to date, De Morgan's law clearly demonstrates that without time or date is equivalent to without time and without date, as previously argued by Appellants.

As such, to render Claim 20 obvious, the proposed combination must describe a content categorization module for matching without using a time and without using a date, the content with the event and the description information. Since the Examiner himself admits that Chang does not describe this limitation, and further that Ohkubo also discloses using at least the date, the proposed combination fails to describe or suggest this limitation. As such, the proposed combination fails to render Claim 20 obvious.

Furthermore, the Examiner states that "searching for an event that is without a time and without a date would be the same as finding a location and associating it with content,"

and cites to U.S. Publication No. 2004/0135904 to Shiota (Paras. 0011-0012) and U.S. Publication No. 2006/0155761 to Van De Sluis et al. (see Office Action, pg. 12).

With respect to Shiota, Appellants respectfully submit that Shiota does not describe or suggest at least "a content categorization module for matching without using a time or date, the content with the event and the description information," as recited in Claim 20. Shiota specifically discloses "[a]n image sorting method ... includ[ing] the steps of obtaining photography date/time information '" selecting a single corresponding event which corresponds to the date/time of photography ... and associating the corresponding event with the image data" (Shiota, para. 0007). The cited portions simply discuss attaching a location name to the image that has already been associated with an event based on the time/date. More specifically, the cited portion of Shiota refers to additional information that may be associated with the image data. As such, the event in Shiota is not "without a time or without a date as recited by the Examiner" and instead the event is associated with the image based on a time and date (see Shiota, paras. 0007, 0011 and 0012). Furthermore, the cited portions of Shiota refer to finding an area name based on location information attached to the image, and do not discuss matching the "event" based on the location information attached to the image (see Shiota, paras. 0010-0012).

Next, with regard to Van De Sluis, Appellants initially point out that this reference is a new reference, not having been cited in any previous communication. According to the Manual of Patent Examining Procedure (MPEP),

"second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement" (MPEP §706.07(a), emphasis added).

Therefore, Appellants respectfully submit that the Examiner cannot base his rejections of at least Claim 20 on Van De Sluis, because this reference was not previously cited in any communication from the patent office, and furthermore, was not necessitated by Appellants' amendments, or based on information submitted in an Information Disclosure Statement by Applicant. As such, Appellants respectfully submit that any rejections based on the Van De Sluis patent must be represented in a non-final Office Action.

Furthermore, Appellants respectfully submit that Van De Sluis fails to describe or suggest at least "a content categorization module for matching without using a time or date, the content with the event and the description information," as recited in Claim 20. Instead, the search for specific occasions, i.e. events, is done using Van De Sluis' date/occasion database. Date/occasion database 23 stores known dates associated with specific occasions occurring on the dates" (para. 0019), such as by using "the date and time at which the photograph is taken" (para. 0019). Van De Sluis only appears to disclose using GPS information to assign a location name(s) to an image (see Van De Sluis, para. 0017 and 0018), and does not describe searching for an event profile corresponding to the event using the GPS information. As such, Van De Sluis also fails to describe or suggest "a content categorization module for matching without using a time or date, the content with the event and the description information," as recited in at least Claim 20 (emphasis added).

The Examiner in response to these arguments, states that "these references [i.e. Shiota and Van De Sluis] were not used in the rejection (see Advisory Action, pg. 2). Appellants present these arguments nonetheless to further show that Claim 20 is patentable in view of the art found by the Examiner to be related to the claimed subject matter.

In light of the reasons described above, Appellants respectfully submit that Claim 20 is not rendered obvious in view of the proposed combination, as well as the other prior art cited in the Office Action and Advisory Action. As such, Appellants believe that the rejection of Claim 20 is overcome and should be withdrawn.

Claim 25

A computer-readable medium having computer executable instructions for performing a method comprising:

- detecting an event comprising a plurality of participants and storing an event profile;

- receiving content without a time or a date relating to the event from one of the plurality of participants;

- receiving a request to access the content from a user;

- searching for the event profile corresponding to the content;

- matching the content with the event profile; and

- displaying the content based on the user and the event profile.

Appellants respectfully submit that the combination of Chang and Ohkubo fails to describe or suggest at least "receiving content without a time or a date relating to the event from one of the plurality of participants."

The Examiner submits that Chang does not describe or suggest at least "matching without using a time or a date," as recited in at least Claim 25, and relies on Ohkubo as describing this limitation (Office Action, pg. 10).

However, Appellants submit that Ohkubo also fails to describe or suggest this limitation. Ohkubo specifically describes classifying the image date sets into the event based on photography date information described in the tag information T0 added to the image sets and received along with the image sets (see Ohkubo, Abstract and para. 0080). The Examiner cites to a specific embodiment of Ohkubo where calendar information is not explicitly available. However, the period inference method described in the cited portion uses the tag information which includes the "photography date information" to infer the period of time in which the event occurred. Therefore, the image sets of Ohkubo are always received with tag information which includes at least date information (Ohkubo, para. 0097), i.e., Ohkubo is with a time or date, and is not without a time or date, as claimed. As such, Ohkubo fails to describe or suggest "receiving content without a time or a date relating to the event from one of the plurality of participants."

In response to Appellants' previous arguments stating that Ohkubo fails to describe or suggest "receiving content without a time or a date relating to the event from one of the plurality of participants," because Ohkubo describes receiving image data with photography date information (see response to Office Action mailed November 6, 2008), the Examiner stated "the claims are written to require search without a time or search without a date, not both" (Office Action, pg. 12). Appellants disagree with this contention.

Claim 25 specifically recites: "receiving content without a time or a date relating to the event from one of the plurality of participants." Appellants respectfully submit that the language without a time or a date is different than what the Examiner contends the claim recites, i.e. without a time or without a date. Instead, the language of the claim specifically requires receiving content without a time or a date, not without a time or without a date as suggested by the Examiner. The Examiner bases his rejection of the claim and reliance on Ohkubo on this

contention. (Office Action, pg. 12). As such, the Examiner admits that Ohkubo discloses using at least a date. As such, Ohkubo fails to describe or suggest "receiving content without a time or a date relating to the event from one of the plurality of participants."

In response to the above arguments presented in response to the Office Action mailed April 27, 2009, the Examiner states that "[t]he applicant has clearly used the conjunction 'or' in the claim language. 'Or' is used as a function word to indicate an alternative. If the searching is done without one or both of date and time, the statement is logically true" (Advisory Action, pg. 2). Appellants submit that while "or" is a term used for alternatives and is used in the claim language, the Examiner's contention that if the searching is done without one or both of date and time, the statement is logically correct, is in error. De Morgan's law specifically states that not (p or q) is equivalent to not p and not q. Assuming that p corresponds to time and q corresponds to date, De Morgan's law clearly demonstrates that without time or date is equivalent to without time and without date, as previously argued by Appellants.

As such, to render Claim 25 obvious, the proposed combination must describe receiving content without a time and without a date relating to the event from one of the plurality of participants. Since the Examiner himself admits that Chang does not describe this limitation, and further that Ohkubo also discloses receiving image data with at least the date, the proposed combination fails to describe or suggest this limitation. As such, the proposed combination fails to render Claim 25 obvious.

In light of the reasons described above, Appellants respectfully submit that Claim 25 is not rendered obvious in view of the proposed combination, as well as the other prior art cited in the Office Action and Advisory Action. As such, Appellants believe that the rejection of Claim 25 is overcome and should be withdrawn.

Claims 2-13, 21-24 and 28-29

The remaining Claims 2-13, 21-24 and 28-29 are dependent claims that ultimately depend upon one of independent Claims 1, 14, 20 and 25. Although other significant points of distinction may be found therein, again, for the purposes of this appeal the Appellants are content to rely only upon the points raised above.

(8) Claims Appendix

Provided is a complete listing of all the pending Claims involved with this appeal:

Claim 1: A method comprising:

detecting an event;

searching for an event profile corresponding to the event wherein the searching is done without using a time or date;

detecting content transmitted by a participant of the event and description information corresponding to the content; and

associating the content with the event based on the description information and the event profile.

Claim 2: The method according to Claim 1 further comprising matching the description information with the event profile.

Claim 3: The method according to Claim 1 wherein the event profile includes an event location.

Claim 4: The method according to Claim 1 wherein the event profile includes an event time.

Claim 5: The method according to Claim 1 wherein the event profile includes an event duration.

Claim 6: The method according to Claim 1 wherein the event profile includes a listing of event participants.

Claim 7: The method according to Claim 1 wherein the description information includes a capture location.

Claim 8: The method according to Claim 1 wherein the description information includes a time.

Claim 9: The method according to Claim 1 wherein the description information includes an author.

Claim 10: The method according to Claim 1 wherein the content is a digital image.

Claim 11: The method according to Claim 1 wherein the content is one of a video media, an audio media, a textual media, and a graphical media.

Claim 12: The method according to Claim 1 further comprising storing the event profile.

Claim 13: The method according to Claim 1 further comprising storing the description information with the content.

Claim 14: A system comprising:

means for detecting an event;

means for searching for an event profile corresponding to the event wherein the means for searching is adapted to search without using a time or a date;

means for detecting content relating to the event and transmitted by a participant of the event and description information corresponding to the content; means for associating the content with the event based on the description information and the event profile; and

means for storing the content and the event.

Claim 20: A system, comprising:

an interface module to receive content and description information corresponding to the content, wherein the content is relating to an event is captured and transmitted by a participant of the event;

a storage module to store a record containing an event profile describing the event wherein the storage module comprises a tangible storage unit; and

a content categorization module for matching without using a time or date, the content with the event and the description information.

Claim 21: The system according to Claim 20 further comprising an event detection module to detect the event.

Claim 22: The system according to Claim 20 wherein the storage module stores the description information and the content.

Claim 23: The system according to Claim 20 further comprising an access control module to selectively allow a user to view the content.

Claim 24: The system according to Claim 23 wherein the access control module allows the user to view the content when the user is one of the plurality of participants listed in the event profile associated with the event.

Claim 25: A computer-readable medium having computer executable instructions for performing a method comprising:

detecting an event comprising a plurality of participants and storing an event profile;

receiving content without a time or a date relating to the event from one of the plurality of participants;

receiving a request to access the content from a user;

searching for the event profile corresponding to the content;

matching the content with the event profile; and
displaying the content based on the user and the event profile.

Claim 26: A method comprising:

receiving an event profile comprising at least one attribute relating to an event;

receiving content and corresponding content description information comprising at least one attribute related to the content; and

associating the content with the event when the at least one attribute related to the event matches the at least one attribute related to the content, wherein the attribute is not a time or a date.

Claim 27: The method of Claim 26 wherein the event comprises multiple participants and the content having been received is transmitted by one of the multiple participants.

Claim 28: The method of Claim 25 further comprising:

displaying the content when requested by a participant of the event, wherein the at least one attribute related to the event is a list of participants of the event.

Claim 29: The method of Claim 25 further comprising:

associating the content with the event when the at least one attribute related to the content and the at least one attribute related to the event match by one of:

an author of the content and a participant of the event; and

a location of the capturing of the content and a location of the event;

wherein the at least one attribute related to the event comprises at least one of the event location, the event time and date, the event duration and the participant and wherein the at least one attribute related to the content comprises at least one of the author of the content, the time and date of the capturing of the content and the location of the capturing of the content.

(9) Evidence Appendix

None

(10) Related Proceedings Appendix

None

CONCLUSION

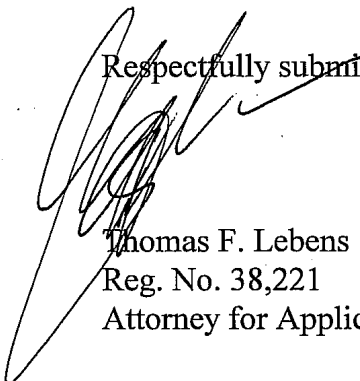
Appellants submit that the rejections of the pending Claims 1-14 and 20-29 are in err, and that Claims 1-14 and 20-29 are patentable over the applied combinations of references.

Appellants respectfully request a reversal of the final rejection.

Dated:

9-29-2009

Respectfully submitted,



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